



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND 1971

ASSEMBLY  
24th session  
Agenda item 1

71FUND/A.24/1  
20 July 2001  
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## PROVISIONAL ANNOTATED AGENDA OF THE TWENTY-FOURTH SESSION OF THE ASSEMBLY

to be held at the Headquarters of the  
International Maritime Organization, 4 Albert Embankment,  
London SE1, from Monday 15 October, 2:30 pm  
to Friday 19 October 2001

### *Opening of the session*

At its 4th extraordinary session, held in April/May 1998, the Assembly recognised that it might not be possible to achieve a quorum at later sessions of the Assembly, since many Member States would be denouncing the 1971 Fund Convention. The Assembly therefore adopted Resolution N°13 whereby, if the Assembly should fail to achieve a quorum, various functions of the Assembly shall be delegated to the Executive Committee, thereby enabling the Committee to take decisions in place of the Assembly. If the Executive Committee should also fail to achieve a quorum, however, the functions of the Committee shall revert to the Assembly. In such a case, the Administrative Council established under Resolution N°13 shall assume the functions of the Assembly (and therefore also of the Executive Committee). This Resolution is reproduced in the Annex.

It should be noted that only five of the 15 States elected to the Executive Committee by the Assembly at the last session at which it had a quorum (its 4th extraordinary session, held in April/May 1998) remain Members of the 1971 Fund. As the quorum requirement for the Committee is ten States, it will no longer be possible for this Executive Committee to achieve a quorum. For that reason, unless the Assembly achieves a quorum and elects new members to the Executive Committee, further sessions of the Committee cannot be convened, and the functions of the Assembly cannot be delegated to the Committee if the Assembly does not achieve a quorum.

Accordingly, if no quorum is achieved within 30 minutes of the time indicated above for the opening of the Assembly's session, the agenda items set out below shall be dealt with by the Administrative Council established under Resolution N°13 and convened from 15 to 19 October 2001.

**1     Adoption of the Agenda****2     Election of the Chairman and two Vice-Chairmen**

In accordance with Article 18.1 of the 1971 Fund Convention and Rule 20 of the Rules of Procedure, the Assembly will be invited to elect a Chairman and two Vice-Chairmen who shall hold office until the next regular session.

If the Assembly's agenda is dealt with by the Administrative Council, the Council will be invited to elect a Chairman and a Vice-Chairman to hold office until the next session of the Council.

**3     Examination of credentials**

In accordance with Rule 10 of the Rules of Procedure, the Director will report to the Assembly on the credentials received from representatives of Members.

If the Assembly's agenda is dealt with by the Administrative Council, this item shall not be considered.

*General review*

**4     Report of the Director**

The Assembly may wish to consider the Director's report on the operations of the 1971 Fund since the 2nd session of the Administrative Council acting on behalf of the Assembly in respect of the Assembly's 23rd session (document 71FUND/A.24/2).

*Treaty questions*

**5     Status of the 1971 Fund Convention**

The Director will submit a document on the denunciations of the 1971 Fund Convention (document 71FUND/A.24/3).

**6     Winding up of the 1971 Fund**

At its 5th session held in June 2001, the Administrative Council was informed by the Director that in accordance with the 2000 Protocol to the 1971 Fund Convention the Convention will cease to be in force on 24 May 2002 when the number of Member States falls below 25. The Director will submit a document on the winding up of the 1971 Fund (document 71FUND/A.24/4).

**7     Replacement of instruments enumerated in Article 5.3 of the 1971 Fund Convention**

The Assembly will be invited to examine whether to include, in the list of instruments contained in Article 5.3(a) of the 1971 Fund Convention, certain amendments to those instruments (document 71FUND/A.24/5).

*Financial matters*

**8     Report on investments**

In accordance with Financial Regulation 10.2, the Director will submit a detailed report on the 1971 Fund's investments since the 2nd session of the Administrative Council acting on behalf of the Assembly in respect of the Assembly's 23rd session (document 71FUND/A.24/6).

**9 Report of the Investment Advisory Body**

In accordance with the mandate of the Investment Advisory Body, the Body shall submit, through the Director, to each ordinary session of the Assembly, a report on its activities since the previous session of the Assembly. The Assembly will be invited to consider this report (document 71FUND/A.24/7).

**10 Financial Statements and Auditor's Report and Opinion**

In accordance with Article 29.2(f) of the 1971 Fund Convention, the Director has prepared the Financial Statements of the 1971 Fund for the financial year 2000. The Assembly will be invited to consider the Auditor's Report and Opinion and to approve the accounts of the 1971 Fund (document 71FUND/A.24/8).

**11 Audit procedures**

In order to increase the transparency of the financial management of the 1971 Fund, the Assembly is invited to consider the establishment of a body which should discuss the priorities of the coming audit with the External Auditor and examine the results of the audit in more detail than can be done at the Assembly sessions (document 71FUND/A.24/9).

**12 Appointment of members of the Investment Advisory Body**

The Investment Advisory Body shall be composed of three experts appointed by the Assembly for one year. The Assembly will be invited to appoint members of the Investment Advisory Body for the 1971 Fund (document 71FUND/A.24/10).

*Contribution questions*

**13 Report on contributions**

The Director will submit a report to the Assembly on the payment of contributions to the 1971 Fund (document 71FUND/A.24/11).

**14 Non-submission of oil reports**

At its 2nd session, the Administrative Council, acting on behalf of the Assembly in respect of the Assembly's 23rd session, renewed its instruction to the Director to make contact with any State which failed to submit its contributing oil reports and to inform the competent persons that the Assembly would review the situation of each such State. The Director will submit a document on this issue (document 71FUND/A.24/12).

*Secretariat and administrative matters*

**15 Organisation of meetings**

At its 2nd session, the Administrative Council, acting on behalf of the Assembly in respect of the Assembly's 23rd session, instructed the Director to examine ways of improving the organisation of work during meetings. A document will be presented on this issue (document 71FUND/A.24/13).

**16 Working methods and structure of the Secretariat**

At its 2nd session the Administrative Council, acting on behalf of the Assembly in respect of the Assembly's 23rd session, instructed the Director to continue to implement and assess the new working methods and to report the developments to the Assembly at its next regular session. The Director will prepare a document on this issue (document 71FUND/A.24/14).

**17     Amendment to Financial Regulations**

Financial Regulation 7.3 deals with the 1971 Fund's Provident Fund. Following the transfer of the Secretariat functions to the 1992 Fund, the Staff Provident Fund is maintained within the 1992 Fund. Regulation 7.3 should therefore be deleted (document 71FUND/A.24/15).

*Compensation matters*

**18     Reports of the Administrative Council on its 3rd to 5th sessions**

The reports of the Administrative Council's 3rd, 4th and 5th sessions (which dealt with items on the agendas of the Assembly's 6th, 7th and 8th extraordinary sessions respectively) will be presented to the Assembly by the Administrative Council's previous Chairman (documents 71FUND/AC.3/A.ES.6/7, 71FUND/AC.4/A/ES.7/6 and 71FUND/AC.5/A/ES.8/10).

If the Assembly's agenda is dealt with by the Administrative Council, this item shall not be considered.

**19     Incidents involving the 1971 Fund**

The Director will inform the Assembly of recent developments regarding incidents involving the 1971 Fund. He will report to the Assembly any settlement of claims against the 1971 Fund which have been made under his authority and will submit for the Assembly's consideration any claims or other issues requiring discussion. Information will be contained in various documents. A summary of the situation in respect of all incidents will be submitted in document 71FUND/A.24/16.

**20     Election of members of the Executive Committee**

Pursuant to Article 23.1 of the 1971 Fund Convention, the Assembly will be invited to elect new members of the Executive Committee. The Director will submit a document containing the necessary information (document 71FUND/A.24/17).

If the Assembly's agenda is dealt with by the Administrative Council, this item shall not be considered.

*Budgetary matters*

**21     Sharing of joint administrative costs with the 1992 Fund**

The Assembly will be invited to consider how the joint administrative costs should be apportioned between the 1971 Fund and the 1992 Fund for 2002 (document 71FUND/A.24/18).

**22     Working capital**

The Assembly will be invited to review the level of the working capital of the 1971 Fund, in accordance with Financial Regulation 7.1(b) (document 71FUND/A.24/19).

**23     Budget for 2002 and assessment of contributions to the General Fund**

A draft budget for the 1971 Fund for the calendar year 2002 dealing with the administrative expenses and the contributions to the General Fund will be submitted to the Assembly for consideration and adoption, in accordance with Article 12 of the 1971 Fund Convention (document 71FUND/A.24/20).

**24     Assessment of contributions to Major Claims Funds**

The Assembly will be invited to decide on the assessment of contributions to Major Claims Funds in accordance with Article 12.2(b) of the 1971 Fund Convention. The Director will submit a document on this matter (document 71FUND/A.24/21).

*Other matters*

**25     Future sessions**

Article 19 of the 1971 Fund Convention provides that the Assembly shall have regular sessions once every calendar year. Tentative arrangements have been made with IMO for a regular session in October 2002. In addition, it will be necessary to make arrangements for extraordinary sessions of the Assembly (or the Administrative Council) to be convened during 2002 to deal with matters which would have been dealt with by the Executive Committee if the Committee had been able to achieve a quorum.

**26     Any other business**

The Assembly will be invited to consider other matters which may be proposed by Member States or by the Director.

**27     Adoption of the Record of Decisions**

Rule 27 of the Rules of Procedure provides that the Secretariat shall prepare a Record of Decisions of the session. The Assembly will be invited to adopt this Record of Decisions.

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## **ANNEX**

### **Resolution N°13:** **Operation of the 1971 Fund from 16 May 1998**

#### **THE ASSEMBLY OF THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND 1971 (1971 FUND),**

**NOTING** that there are 76 States Parties to the 1971 Fund Convention;

**AWARE** that 24 of these States will cease to be Members of the 1971 Fund from 16 May 1998 and that a number of other States will in the near future also cease to be Members of the 1971 Fund,

**RECOGNISING** that, as a result of these States leaving the 1971 Fund, it is likely, despite considerable efforts to be made by the Director, that the Assembly of the Organisation will no longer be able to achieve a quorum and that the same may in the near future apply to its Executive Committee,

**ACKNOWLEDGING** that this would result in the 1971 Fund's being unable to operate in a normal way,

**MINDFUL** that the 1971 Fund's objective is to pay compensation to victims of oil pollution damage in Member States,

**RECALLING** that it is the task of the Assembly, under Article 18.14 of the 1971 Fund Convention, to perform such functions as are necessary for the proper operation of the 1971 Fund,

**AWARE** that the Assembly may allocate functions to the Executive Committee in accordance with Article 26.1(c) of the 1971 Fund Convention,

**NOTING** that, under Article 44.2, the Assembly should take all appropriate measures to complete the winding up of the 1971 Fund, including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the Fund,

**CONSCIOUS** of the need to establish a structure which will permit the 1971 Fund to operate from 16 May 1998 until such time as it is wound up,

**RECOGNISING** that it is the general responsibility of the Assembly to ensure the proper operation of the 1971 Fund and that it is therefore the duty of the Assembly to take the necessary measures to achieve this,

**CONSIDERING** that it is important to ensure that the interests of States which remain Members of the 1971 Fund are protected,

**RECALLING** Resolution N°11 of the 1971 Fund on co-operation between the 1971 Fund and its former Member States, in which it is recognised that former States Parties which have been affected by incidents covered by the 1971 Fund Convention but in respect of which settlements have not yet been finalised, should be entitled to present their views on pending cases in the competent bodies of the 1971 Fund,

- 1 **INSTRUCTS** the Director to convene a regular session of the Assembly of the 1971 Fund once every calendar year, and in the invitations to urge States to make every effort to be represented at the meeting, and to draw attention to the consequences of a quorum not being achieved.

- 2     **RESOLVES** that, in addition to those functions which are allocated to the Executive Committee pursuant to Article 26.1 of the 1971 Fund Convention, the following functions of the Assembly shall be delegated to the Executive Committee with effect from the first session of the Assembly at which the latter is unable to achieve a quorum, on the condition that if the Assembly were to achieve a quorum at a later session or sessions, the Assembly would resume the functions previously allocated to the Committee:
- (a)     to adopt the annual budget and fix the annual contributions;
  - (b)     to appoint auditors and approve the accounts of the 1971 Fund;
  - (c)     to supervise the proper execution of the 1971 Fund Convention and of its own decisions;
  - (d)     to perform such other functions as are otherwise necessary for the proper operation of the 1971 Fund;
  - (e)     to take all appropriate measures to complete the winding up of the 1971 Fund, including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the 1971 Fund;
- 3     **RESOLVES ALSO** that, whenever the Executive Committee fails to achieve a quorum, all functions undertaken by the Committee (ie those allocated by the Assembly and those allocated in accordance with the 1971 Fund Convention) shall revert to the Assembly;
- 4     **HEREBY CREATES** a body to be known as the Administrative Council, which shall have the following mandate:
- (a)     to perform such functions as are allocated to the Assembly under the 1971 Fund Convention or which are otherwise necessary for the proper operation of the 1971 Fund;
  - (b)     to establish a subsidiary body to consider the settlement of claims;
  - (c)     to give instructions to the Director concerning the administration of the 1971 Fund;
  - (d)     to supervise the proper execution of the Convention and of its own decisions;
  - (e)     to take all appropriate measures to complete the winding up of the 1971 Fund, including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the 1971 Fund, at the earliest possible opportunity;
- 5     **FURTHER RESOLVES** that the Administrative Council shall assume its functions whenever the Assembly fails to achieve a quorum after the functions allocated to the Executive Committee in accordance with paragraph 2 have reverted to the Assembly pursuant to paragraph 3, on the condition that, if the Assembly were to achieve a quorum at a later session, it would resume its functions;
- 6     **DECIDES** that the following States and organisations shall be invited to take part in sessions of the Administrative Council:
- (a)     1971 Fund Member States;
  - (b)     former 1971 Fund Member States;
  - (c)     other States which would be invited to attend sessions of the 1971 Fund Assembly as observers; and
  - (d)     intergovernmental organisations and international non-governmental organisations which have observer status with the 1971 Fund;

**FURTHER DECIDES:**

- (a) that decisions of the Administrative Council shall be taken by majority vote of those 1971 Fund Member States and former 1971 Fund Member States present and voting, provided that a former 1971 Fund Member State shall have the right to vote only in respect of issues relating to incidents which occurred while the 1971 Fund Convention was in force for that State;
- (b) that there shall be no quorum requirement for the Administrative Council;
- (c) that the Administrative Council shall meet at least once every calendar year at thirty days' notice upon convocation by the Director, either at his own initiative or at the request of its Chairman;
- (d) that the Rules of Procedure of the Administrative Council shall be those of the Assembly, to the extent applicable;
- (e) that the States invited to a session of the Administrative Council shall inform the Director of the person or persons who will attend; and
- (f) that the sessions of the Administrative Council shall be held in public, unless the Council decides otherwise;

**FURTHER RESOLVES** that the Director of the 1971 Fund shall *ex officio* be the person who holds the post of Director of the 1992 Fund, provided that the Assembly of the 1992 Fund agrees thereto and that the Director of the 1992 Fund agrees to carry out the functions of the Director of the 1971 Fund also, or, if these conditions are not met, that the Director shall be appointed by the Executive Committee in accordance with paragraph 2 above, or by the Administrative Council in accordance with paragraph 4 above.

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